



**A REGULAR MEETING
OF THE WESLACO CITY COMMISSION
AUGUST 7, 2012**

On this 7th day of August 2012 at 5:30 p.m., the City Commission of the City of Weslaco, Texas convened in Regular Session at City Hall in the Legislative Chamber, located at 255 South Kansas Avenue with the following members present:

Mayor	Miguel D. Wise
Mayor Pro-Tem	J.F. "Johnny" Cuellar
Commissioner	Olga M. Noriega
Commissioner	Gerardo "Jerry" Tafolla
Commissioner	Lupe V. Rivera
Commissioner	Joe A. Martinez
City Manager	Leonardo Olivares
City Secretary	Elizabeth Walker
City Attorney	Ramon Vela

Also present: Rey Garcia, IT Director; Gloria Givilancz, Interim Finance Director; Lori Maldonado, Utility Billing Supervisor; Oscar Garcia, Public Facilities Director; Interim Police Chief Michael Kelly; Fire Chief Jimmy Cuellar; Arnold Becho, Library Director; Martin Mata, Assistant Library Director; Erasmo Lozano, Assistant Public Facilities Director; and several other staff members and citizens.

I. CALL TO ORDER

- A. Certification of Public Notice.
Mayor Wise called the meeting to order and certified the public notice of the meeting as properly posted Friday, August 3, 2012.
- B. Invocation.
Father Mario Castro from the San Martin de Porres Catholic Church delivered the invocation.
- C. Pledge of Allegiance.
Mayor Wise recited the Pledge of Allegiance and the Texas Flag.
- D. Roll Call.
Elizabeth Walker, City Secretary, called the roll, noting the absence of Commissioner Garza.

II. PUBLIC HEARINGS

- A. To solicit input on behalf of applicant Tomas Gonzalez and owner Feliza Taylor to approve a Conditional Use Permit to obtain a Wine and Beer Retailer's Off-Premise Permit at 611 S. Texas Blvd., also being all of Lot 19 and the South 20' of Lot 20, Block 49, Weslaco Original Townsite, Weslaco, Hidalgo County, Texas.

Mayor Pro-Tem Cuellar, seconded by Commissioner Rivera, moved to open public hearings on items II. A – D concurrently. The motion carried unanimously; Mayor Wise was present, but not voting.

The City Manager assured that notice had been published in the Monitor and all affected property owners had been notified. There were no comments received.

- B. To solicit input on behalf of CEC Entertainment, Inc., owners SDI Weslaco Holdings, LLC, d.b.a. Chuck E. Cheese's, to approve a Conditional Use Permit to obtain a Wine and Beer Retailer's Permit at 725 E. Expressway 83, also being Lot 8R of the Re-plat of Lots 6, 7, & 8, SDI Weslaco Holdings, LLC Subdivision, Weslaco, Hidalgo County, Texas.
- C. To solicit input on behalf of Specs' Family Partners, Ltd., owner Capcor Weslaco, Ltd., d.b.a. Feldman's, to approve a Conditional Use Permit to obtain a Package Store Permit, Beer Retail Dealer's Off-Premise License, Local Distributor's Permit, Local Cartage Permit and Package Store Tasting Permit at 809 E. Expressway 83, also being all of Lot 3 SDI Weslaco Holdings, LLC-Amended Subdivision, Weslaco, Hidalgo County, Texas.
- D. To solicit input on behalf of Carlos De La Cruz, d.b.a. Jalisco Restaurant to approve a Conditional Use Permit to obtain a Mixed Beverage Restaurant Permit with Food Beverage Certificate, late hours and live music permit at 1501 N. Westgate Drive, also being 0.491 AC, Block C, Expressway Heights Subdivision, Weslaco, Hidalgo County, Texas.

Mayor Pro-Tem Cuellar, seconded by Commissioner Rivera, moved to close public hearings on items II. A – D. The motion carried unanimously; Mayor Wise was present, but not voting.

III. CONSENT AGENDA

The following items are of a routine or administrative nature. The City Commission has been furnished with background and support material on each item, and/or it had been discussed at a previous meeting. All items will be acted upon by one vote without being discussed separately unless requested by one commission member, in which event the item or items will immediately be withdrawn for individual consideration in its normal sequence after the items not requiring separate discussion have been acted upon. The remaining items will be adopted by one vote. Possible action.

- A. Approval of the Minutes of the Regular Meeting of July 17, 2012; (Requested by City Secretary's Office.) Attachment.
- B. Acceptance by the Police Department of the Grant Award from the Texas Department of Public Safety Texas Ranger Division Local Border Security Program for the Fiscal Year (FY) 2012 (LBSP-12) in the amount of \$15,000.00 for payment of overtime and operational costs for local law enforcement officers and authorize the Mayor and associated staff to execute any related documents. (Requested by Police Department.) Attachment.
- C. Approval of the amendment to the contract with Texas A&M University - Kingsville

to add a two-year extension to contract for the *Phase II Non-Point Source Water Quality Management Planning and Implementation Grant* which allows the library to construct water harvesting facilities at their location and lower much of their municipal water demand. (Requested by the Mayor Joe V Sánchez Public Library.) Attachment.

- D. Approval of the renewal of the annual Host Agency Agreement with AARP Senior Community Service Employment Program allowing the City of Weslaco to accept participants through a short-term work-training program and authorize the Mayor to execute any documents. (Requested by Human Resources Department.) Attachment.
- E. Approval on behalf of Kyndel W. Bennett, President of Caltex RGV Ventures, LTD to amend all records, including City Commission Minutes of June 5, 2012 as well as the Subdivision Plat, to identify Comanches Subdivision as Comanches Estates Subdivision and authorize the Mayor to execute any related documents. (Requested by Planning and Code Enforcement Department.) Attachment.
- F. Approval to authorize the transfer of \$3,000.00 from the Water fund Account No. 51-558-3090 to the General fund Account No. 01-529-3240 for fueling expenses for the Excavator Unit #443 at the Public Facilities Department and authorize a budget amendment as appropriate. (Requested by Public Facilities Department.) Attachment.
- G. Approval to authorize the transfer of \$9,000.00 from the Water fund Account No. 51-559 to the General fund Account No. 01-510-2641 for the Maint-Heat & A/C expenses at the Police Department and authorize a budget amendment as appropriate. (Requested by Public Facilities Department.) Attachment.

Commissioner Noriega requested items III. F and G be withheld for discussion.

Commissioner Tafolla, seconded by Commissioner Rivera, moved to approve consent agenda items A, B, C, D, and E as presented. The motion carried unanimously; Mayor Wise was present, but not voting.

IV. APPOINTMENTS

- A. Discussion and consideration to approve Resolution 2012-01 appointing a member to an expired term on the Board of Adjustments and Appeals to the Zoning Ordinance. Possible action. (Requested by Planning & Zoning Department; This item was tabled November 15, 2011.) Attachment.

Commissioner Noriega, seconded by Commissioner Tafolla, moved to approve Resolution 2012-01 appointing Larry Cardenas, Sr. as a member of the Board of adjustments and Appeals to the Zoning Ordinance. The motion carried unanimously; Mayor Wise was present, but not voting.

For the record, the Resolution reads as follows:

RESOLUTION NO. 2012- 01

**A RESOLUTION OF THE CITY OF WESLACO APPOINTING ONE
MEMBER TO THE BOARD OF ADJUSTMENTS & APPEALS-ZONING
ORDINANCE.**

WHEREAS, the City of Weslaco created and established the Board of Adjustments & Appeals-Zoning Ordinance.

WHEREAS, the term of the members of this board are for two years; and

WHEREAS, the Board of Adjustments & Appeals-Zoning Ordinance members shall serve with neither compensation nor term limits; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF WESLACO, TEXAS THAT Larry Cardenas, Sr. is appointed to serve on the Board of Adjustments & Appeals-Zoning Ordinance and the term will expire on 8th day of August, 2014.

PASSED AND APPROVED on this 7th day of August, 2012.

/s/ Miguel D. Wise, MAYOR

ATTEST:

/s/ Elizabeth M. Walker, CITY SECRETARY

APPROVED AS TO FORM:

/s/ Ramon Vela, CITY ATTORNEY

- B. Discussion and consideration to approve Resolution 2012-55 appointing an official member and an alternate member to the Amigos del Valle, Inc. Board of Directors for Fiscal Year 2012-2013. Possible action. (Requested by Amigos del Valle.) Attachment.

Mayor Pro-Tem Cuellar, seconded by Commissioner Rivera, moved to approve Resolution 2012-55 reappointing Eloy Alaniz as an official member and Commissioner Noriega as an alternate member of the Amigos del Valle, Inc. Board of Directors for Fiscal Year 2012-2013. The motion carried unanimously; Mayor Wise was present, but not voting.

For the record, the Resolution reads as follows:

RESOLUTION NO. 2012-55

THE STATE OF TEXAS	§ A RESOLUTION APPOINTING A MEMBER AND AN
COUNTY OF HIDALGO	§ ALTERNATE MEMBER TO THE AMIGOS DEL
CITY OF WESLACO	§ VALLE, INC. BOARD OF DIRECTORS FOR FISCAL
	YEAR 2012-2013

WHEREAS, the Amigos del Valle, Inc. has requested that a City of Weslaco elected official be appointed to serve as the official member of the Amigos del Valle, Inc. Board of Directors; and

WHEREAS, the City of Weslaco may elect to appoint an individual of the City of Weslaco to serve in place of the official member; and

WHEREAS, the Amigos del Valle, Inc. has requested that a City of Weslaco elected official be appointed to serve as an alternate member of the Amigos del Valle, Inc. Board of Directors; and

NOW THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF WESLACO that Eloy Alaniz be appointed as the official member of the Amigos del Valle, Inc. Board of Directors.

BE FURTHER RESOLVED that Olga Noriega, City Commissioner be appointed as an alternate member of the Amigos del Valle, Inc. Board of Directors and a copy of this Resolution shall be delivered to the Amigos del Valle, Inc. to evidence these appointments.

PASSED AND APPROVED this 7th day of August, 2012.

/s/ Miguel D. Wise, MAYOR

ATTEST:

/s/ Elizabeth M. Walker, CITY SECRETARY

APPROVED AS TO FORM:

/s/ Ramon Vela, CITY ATTORNEY

V. NEW BUSINESS

- III. F.** Approval to authorize the transfer of \$3,000.00 from the Water fund Account No. 51-558-3090 to the General fund Account No. 01-529-3240 for fueling expenses for the Excavator Unit #443 at the Public Facilities Department and authorize a budget amendment as appropriate. (Requested by Public Facilities Department.) Attachment.

At the request of Commissioner Noriega, this and the following item were withheld from the consent agenda for discussion as new business. She expressed concern based on earlier budget discussions that the City regularly dips into this water fund; the City Manager acknowledged that the point was well taken, but that few departments within the City generate revenue; consequently, as the City strives to balance at year-end, it must transfer from funded accounts. He noted that at one point, the City transferred \$4 million from the water fund; this year \$1.2 million has been transferred to date.

Commissioner Tafolla, seconded by Mayor Pro-Tem Cuellar, moved to approve the item as presented. The motion carried unanimously; Mayor Wise was present, but not voting.

- III. G.** Approval to authorize the transfer of \$9,000.00 from the Water fund Account No. 51-559 to the General fund Account No. 01-510-2641 for the Maint-Heat & A/C expenses at the Police Department and authorize a budget amendment as appropriate. (Requested by Public Facilities Department.) Attachment.

Similarly to the previous discussion, the City Manager acknowledged the point was well taken.

Commissioner Tafolla, seconded by Commissioner Martinez, moved to approve the item as presented. The motion carried unanimously; Mayor Wise was present, but not voting.

- A.** Discussion and consideration after public hearing on behalf of applicant Tomas Gonzalez and owner Feliza Taylor to approve a Conditional Use Permit to obtain a Wine and Beer Retailer's Off-Premise Permit at 611 S. Texas Blvd., also being all of Lot 19 and the South 20' of Lot 20, Block 49, Weslaco Original Townsite, Weslaco, Hidalgo County, Texas. Possible action. (Requested by Planning and Code Enforcement Department.) Attachment.

The City Manager stated notice had been published and a public hearing held; no comments were received. Owner Feliza Taylor clarified the business will occupy the former oil change facility on South Texas Boulevard. Commissioner Noriega confirmed with Mr. Joe Pedraza, Planning and Code Enforcement, that the ordinance requiring a conditional use on all beer and wine sales was in effect.

Mayor Pro-Tem Cuellar, seconded by Commissioner Tafolla, moved to approve the item as presented. The motion carried unanimously; Mayor Wise was present, but not voting.

- B. Discussion and consideration after public hearing on behalf of CEC Entertainment, Inc., owners SDI Weslaco Holdings, LLC., d.b.a. Chuck E. Cheese's, to approve a Conditional Use Permit to obtain a Wine and Beer Retailer's Permit at 725 E. Expressway 83, also being Lot 8R of the Re-plat of Lots 6, 7, & 8, SDI Weslaco Holdings, LLC Subdivision, Weslaco, Hidalgo County, Texas. Possible action. (Requested by Planning and Code Enforcement Department.) Attachment.

The City Manager noted that the Planning and Zoning Commission recommends approval with the condition of security present.

Commissioner Tafolla, seconded by Commissioner Rivera, moved to approve the item as presented. The motion carried unanimously; Mayor Wise was present, but not voting.

- C. Discussion and consideration after public hearing on behalf of Specs' Family Partners, Ltd., owner Capcor Weslaco, Ltd., d.b.a. Feldman's, to approve a Conditional Use Permit to obtain a Package Store Permit, Beer Retail Dealer's Off-Premise License, Local Distributor's Permit, Local Cartage Permit and Package Store Tasting Permit at 809 E. Expressway 83, also being all of Lot 3 SDI Weslaco Holdings, LLC-Amended Subdivision, Weslaco, Hidalgo County, Texas. Possible action. (Requested by Planning and Code Enforcement Department.) Attachment.

The City Manager noted that the Planning and Zoning Commission recommends approval without conditions.

Commissioner Rivera, seconded by Commissioner Martinez, moved to approve the item as presented. The motion carried unanimously; Mayor Wise was present, but not voting.

- D. Discussion and consideration after public hearing on behalf of Carlos De La Cruz, d.b.a. Jalisco Restaurant to approve a Conditional Use Permit to obtain a Mixed Beverage Restaurant Permit with Food Beverage Certificate, late hours and live music permit at 1501 N. Westgate Drive, also being 0.491 AC, Block C, Expressway Heights Subdivision, Weslaco, Hidalgo County, Texas. Possible action. (Requested by Planning and Code Enforcement Department.) Attachment.

The City Manager noted that the Planning and Zoning Commission recommends approval with the condition of bonded security present on Friday and Saturday

evenings.

Commissioner Rivera, seconded by Commissioner Martinez, moved to approve the item as presented. The motion carried unanimously; Mayor Wise was present, but not voting.

- E. Discussion and consideration to approve Resolution 2012-56 authorizing all matters incident and related to the issuance and sale of the Economic Development Corporation of Weslaco Sales Tax Revenue Bonds Series 2012 in the amount of \$1,115,000.00 and authorize the Mayor to execute any related documents, including the Financing/Use Agreement. Possible action. (Requested by the Economic Development Corporation.) Attachment.

Mr. Hernan Gonzalez indicated there is a typo on the bond documents conveyed; the amount should read \$1,155,000.00; the City Attorney noted Commission action may reflect the change.

Mayor Pro-Tem Cuellar, seconded by Commissioner Martinez, moved to approve Resolution 2012-56 authorizing all matters incident and related to the issuance and sale of the Economic Development Corporation of Weslaco Sales Tax Revenue Bonds Series 2012 in the amount of \$1,155,000.00 and authorize the Mayor to execute any related documents, including the Financing/Use Agreement. The motion carried unanimously; Mayor Wise was present, but not voting.

- F. Discussion and consideration to approve an Election Order toward a Special Election to submit to the legally qualified voters of the City of Weslaco local option proposition(s) authorizing the use of Development Corporation Act of 1979 (Vernon's Ann. Civ. Statute Article 5190.6, as amended) 4A ½ Sales Tax Monies for Section 4B authorized uses and authorize the Mayor and Commissioners to execute any related documents. Possible action. (Requested by Commissioners Tafolla and Rivera.) Attachment.

The City Manager explained that the Development Corporation Act authorizes the application of sales tax revenue for economic development; however, only three of nine eligible activities were ever considered and approved for Weslaco. The remaining six by this action would be placed on the next ballot for consideration by the voters. Mr. Hernan Gonzalez commented that he cannot see the downside since this action would only expand and empower with more tools to the Economic Development Corporation and does not create a separate entity. The Mayor clarified that regardless of any action, the three original categories remain.

Commissioner Tafolla, seconded by Commissioner Rivera, moved to approve the item as presented. Commissioner Tafolla, seconded by Commissioner Rivera, amended the motion to move to approve the item to be held at the next municipal election, not date certain. The motion carried unanimously; Mayor Wise was present, but not voting.

- G. Discussion and consideration to approve an Election Order toward a joint election with the Weslaco Independent School District during the General Election on

November 6, 2012 pursuant to Texas Election Code Chapter 271 and authorize the Mayor and Commissioners to execute any related documents. Possible action. (Requested by Office of the City Secretary.) Attachment.

The City Manager stated this action is subsequent to previous action by the Commission to move the municipal election from May to November; the City Secretary added this election would be for Single Member Districts Commissioners 1 and 4.

Commissioner Tafolla, seconded by Mayor Pro-Tem Cuellar, moved to approve the item as presented. The motion carried unanimously; Mayor Wise was present, but not voting.

- H. Discussion and consideration to approve an Election Order toward a Special Election with possible Home Rule Charter Referendum pursuant to Texas Election Code Chapter 271, and authorize the Mayor and Commissioners to execute any related documents. Possible action. (Requested by Office of the City Secretary.) Attachment.

There was no action on this item; the Mayor noted that the Commission could add additional propositions to the ballot by August 20.

- I. Discussion and consideration to approve Ordinance 2012-17 establishing the candidate filing fee and hardship alternative for City of Weslaco municipal elections, and ordaining other matters with respect to the subject matter hereof. First Reading of Ordinance 2012-17. Possible action. (Requested by City Secretary's Office.) Attachment.

The Mayor Pro-Tem stated the intent of the fee is to establish the seriousness of the candidate and suggested rather than community service hours that the candidate file a petition with a minimum number of voters, like with county offices. The City Attorney noted the Commission may make the motion to include the petition option, to then be reflected on second reading of the ordinance. The Mayor stated that the City must give the candidate a non-monetary alternate means to file. There was no action on this item.

- J. Discussion and consideration to approve the final payment from Division 16 for the Water Treatment Plant Generator project for the amount not to exceed \$37,291.15 and authorize the Mayor to execute any related documents. Possible action. (Requested by Public Utilities Department.) Attachment.

The City Manager recommended approval of this final payment conditional on the completion of the final punch list and correction of any deficiencies. The City Attorney noted the City may also retain the full five-percent retainage on the entire contract. The City Manager stated the City will need to file a claim. There was no action on this item.

- K. Discussion and consideration to authorize pay application number 2 and final payment in the amount of \$10,036.64 to Reyna Family Development for project

Plaza Diez Quince and authorize the Mayor to execute any related documents. Possible action. (Requested by Public Utilities Department.) Attachment.

Commissioner Rivera, seconded by Commissioner Noriega, moved to approve the item as presented. The motion carried unanimously; Mayor Wise was present, but not voting.

- L. Discussion and consideration to renew for an additional year or to issue requests for proposals for the following insurance policies:

- 1) Basic Life & Accidental Death & Dismemberment;
- 2) Commercial Insurance Package; and
- 3) Workers' Compensation Coverage.

Possible action. (There was no action on these policies July 17, 2012; Requested by Human Resources Department.) Attachment.

The City Manager recommended the continuation of existing policies with Dearborn, Montalvo Insurance, and the Texas Municipal League. Commissioner Noriega clarified these were presented at the last meeting but at that time the Commission was informed these would expire in March or April of 2013. The City Attorney stated he was mistaken.

Mayor Pro-Tem Cuellar, seconded by Commissioner Rivera, moved to renew the policies as presented for an additional year with current vendors. The motion carried unanimously; Mayor Wise was present, but not voting.

- M. Discussion and consideration of the City of Weslaco tax rate, take record vote and schedule public hearing for September 3, 2012. Possible action. (Requested by Finance Department.) Attachment.

There was no action on this item.

- N. Discussion and consideration to approve Ordinance 2012-18 authorizing the permanent closure of East Sugarcane Drive between North Paseo del Norte and Joe Stephens Avenue. First reading of Ordinance 2012-18. Possible action. (This item was approved on January 18, 2011; Requested by Legal Department.) Attachment.

The City Manager stated the City is in the process of expanding the runway from 5,000 to 6,000 feet; public hearings with the Texas Department of Transportation have been conducted and more are scheduled.

Commissioner Tafolla, seconded by Mayor Pro-Tem Cuellar, moved to approve the item as presented. The motion carried unanimously; Mayor Wise was present, but not voting.

VI. CITY MANAGER'S REPORT

- A. Report on Departmental Update, Financial Status, Upcoming Meetings, Media Reports, and Public Feedback. Attachment.

The City Manager stated National Night Out is tonight, 6 – 9 p.m. He also recognized Ms. Martha Saenz, who retired from the Police Department after twenty-five years. Through a grant by the Forestry Service, the Fire Department received a brush unit; there were new records of participation in the Summer Reading Program at the Library and the Parks' Gus and Goldie program added a fourth session this summer for the first time, evidence that some departments are doing more with less. He cautioned that the municipal court will issue warnings for debris in alleyways and will try to work with property owners for permission to demolish dilapidated structures.

VII. PUBLIC COMMENTS

Mr. Rene Escalon, Sr., Mr. Mark Castro, Mr. Apollo Rocio, and Mr. Brady Scott each testified about Victory Outreach as a program that helps those with substance abuse; it already has locations in Harlingen and Mercedes and hopes to establish a location at a City facility in Weslaco.

VIII. EXECUTIVE SESSION

At 7:00 p.m., the Mayor announced the regular meeting to convene in Executive Session. At 7:32 p.m., the Mayor announced the City Commission had completed its Executive Session and reconvened the regular meeting as open to the public.

IX. POSSIBLE ACTION ON WHAT IS DISCUSSED IN EXECUTIVE SESSION

- A. Pending Litigation – Discussion with City Attorney regarding Case No. 7:09-CV-0118, *Claudio Lucio v. City of Weslaco* pursuant to §551.071 of the Texas Government Code.

Mayor Pro-Tem Cuellar, seconded by Commissioner Tafolla, moved to approve the settlement agreement as discussed in Executive Session. The motion carried unanimously; Mayor Wise was present, but not voting.

X. ADJOURNMENT

With no other business before the Commission, at 7:35 p.m. Mayor Pro-Tem Cuellar, seconded by Commissioner Martinez, moved to adjourn the August 7, 2012 meeting. The motion carried unanimously; Mayor Wise was present, but not voting.

CITY OF WESLACO

MAYOR, Miguel D. Wise

ATTEST:

CITY SECRETARY, Elizabeth M. Walker

MAYOR PRO-TEM, J.F. “Johnny” Cuellar

(absent)

COMMISSIONER, Robert J. Garza

COMMISSIONER, Olga M. Noriega

COMMISSIONER, Gerardo “Jerry” Tafolla

COMMISSIONER, Lupe V. Rivera

COMMISSIONER, Joe A. Martinez